

NAKANO *et al.*, SN 10/075,244
AF Amdt. dated 04/18/2005
Reply to final OA mailed 11/18/2004

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IN THE DRAWINGS:

Fig. 1, change "36" and "33" to "40" and "42," respectively.

Fig. 14, change "36" and "33" to "40" and "42," respectively.

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REMARKS

This Amendment is responsive to the final Office Action identified above, and is further responsive in any other manner indicated below.

AMENDMENTS TO THE DRAWINGS

Applicant submits herewith annotated copies of Figures 1 and 14 showing proposed changes, as discussed below. Upon approval of such changes, Applicant will file replacement formal drawings incorporating the changes.

PENDING CLAIMS

Claims 1-35 were pending in the application, with Claims 19-35 withdrawn from consideration and Claims 1-18 under consideration and subject to examination at the time of the Office Action. Unrelated to any prior art, scope or rejection, appropriate Claims have been amended to adjust a clarity and/or focus of Applicant's claimed invention. That is, such amendments to the claims are unrelated to any prior art or scope adjustment, and are simply clarified claims in which Applicant is presently interested. At entry of this paper, Claims 1-35 remain pending in the application, with Claims 19-35 currently withdrawn from consideration and Claims 1-18 presented for further examination.

35 USC §112, 2ND PARAGRAPH REJECTIONS-OBVIATED VIA AMENDMENT

Claims 12-18 were rejected under 35 USC §112, second paragraph, for the Office Action concerns listed at Item 2 on page 2 of the Office Action. As

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amendments have been made where appropriate in order to address each of the Office Action listed concerns, it is believed that all §112, second paragraph, rejections have been obviated, and accordingly, reconsideration and withdrawal of the claim rejections under §112, second paragraph, are respectfully requested.

REJECTION UNDER 35 USC §103 - TRAVERSED

The 35 USC §103 rejection of Claims 1-18 as being unpatentable over Nakano *et al.* (JP 11-330053) and Bennett *et al.* (JP 03-147317/US 5,367,139 A) in view of Katsuyama *et al.* (JP 11-340196) is respectfully traversed. Such rejection has been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicants disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed.

In rejecting claims under 35 USC §103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). To reach a conclusion of obviousness under §103, the Examiner must produce a factual basis supported by teaching in a prior art reference or shown to be common knowledge of

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unquestionable demonstration. Such evidence is required to establish a *prima facie* case. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984). The Examiner must not only identify the elements in the prior art, but also show "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead the individual to combine the relevant teachings of the references." *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596 (Fed. Cir. 1988). What a reference teaches is a question of fact. *In re Baird*, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) (citing *In re Beattie*, 974 F.2d 1309, 1311, 24 USPQ2d 1040, 1041 (Fed. Cir. 1992)). (*In re Baird* addresses the substitution of a claim limitation by an element that is alleged to be the same or to operate the same; "the requirements of the claim cannot be ignored or substituted.")

However, the cited prior art does not adequately support a §103 obviousness-type rejection because it does not, at minimum, disclose (or suggest) the following features/limitations as discussed by Applicant's foreign representative in support of traversal of the rejection and patentability of Applicant's claims.

More particularly, ones of the features of the present invention which are not described nor suggested in the cited prior art is referring to a data base in obtaining information on a state of contamination of the inside wall of the processing chamber in the step of signal processing. The database contains information of a relation between a signal obtained by the detection of light reflected from the inside wall and a state of contamination of the inside wall, in the operation of obtaining information on a state of contamination of the inside wall of the processing chamber.

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These novel features/limitations are supported throughout the application as filed, *e.g.*, at page 30, third line from the bottom through page 32, line 9. The blocks numbered 33 and 36 in Figs. 1 and 14 have been corrected to properly identify these elements as computer 42 and storage device 40, respectively, as described in the above-noted pages.

Other features/limitations of the present invention which are not described nor suggested in the applied art is splitting light from the processing chamber into two components, and obtaining information on suspended foreign material in the processing chamber by detecting a first components of the split light through an optical system which is in relation to imaging within the processing chamber, and also obtaining information on contamination inside the processing chamber by detecting a second component of split light through another optical system which is in relation to imaging with the inside wall of the processing chamber.

Such features/limitations are described in the specification at, *e.g.*, page 35, line 12 to page 37, line 5 from the bottom, as a second embodiment referring to the first embodiment. Further, the phrase "relation of imaging" is discussed in the present application at, *e.g.*, page 21, line 18.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support either a §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such §103 rejection, and express written allowance of all of the rejected claims, are respectfully requested.

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RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer of any scope or subject matter. Further, Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, *i.e.*, Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

EXAMINER INVITED TO TELEPHONE

The Examiner is invited to telephone the undersigned at the local D.C. area number 703-312-6600, to discuss an Examiner's Amendment or other suggested action for accelerating prosecution and moving the present application to allowance.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

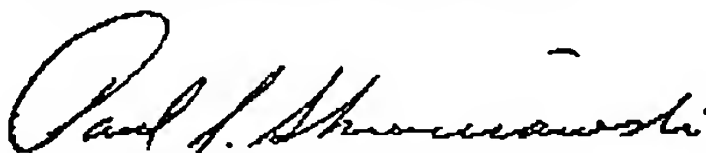
Filed concurrently herewith is a Petition for Extension of Time. To whatever other extent is actually necessary, Applicant respectfully petitions the Commissioner

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for an extension under 37 CFR §1.136. Also concurrently filed are a Notice of Appeal, and a PTO-2038 authorizing payment of all fees required for entry of this paper. Please charge any actual fee deficiency to ATS&K Deposit Account No. 01-2135 (as Case No. 501.41175X00).

Respectfully submitted,



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Attachments:

Copies of FIGs. 1 and 14 annotated
for approved changes

Concurrent Filings:

Petition for Extension of Time
Notice of Appeal
PTO-2038 (Fee Codes 1252/1401)